IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

MONDAY, THE TWENTY FOURTH DAY OF JANUARY
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE N.V. RAMANA

WRIT PETITION No. 25004 of 2004

Between:

T. Gowri Shankar, S/o. R.Tiruvengada Swamy,
R/o. D.No.13-65, Banala Street, Chittoor,

Chittoor District. ..... PETITIONER

AND

1 The District Collector, Chittoor, Chittoor District.
2 The Mandal Revenue Officer, Chittoor, Chittoor District.

.....RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the affidavit filed herein the High Court may be pleased to Issue an order, direction or writ more particularly one in the nature of writ of certiorari calling for all the connected records including the impugned proceedings ROC.No.C3/2711/2003 dated 15.10.2004 and quashing the same as illegal, violative of principles of natural justice and contrary to section 5 of the Act, 16/1993 and further declare the caste certificate dated 4.8.1993 and 29.03.1995 issued by the M.R.O., Chittoor as legal and valid.

Counsel for the Petitioner : Mr.N.BHARAT BABU

Counsel for Respondents : G.P. FOR REVENUE

The Court at the stage of admission, made the following :

ORDER:

Heard the learned counsel for the petitioner and the learned Government Pleader for Revenue appearing for Respondents and with their consent, the main writ petition itself is disposed of at the stage of admission.

Assailing the proceedings of the first respondent dated 15.10.2004 in cancelling the caste certificate of the petitioner, the present writ petition is filed.

The petitioner states that he is a resident of Chittoor and belongs to "GAVARA" community which is recognized as BC-D. He further states that the Mandal Revenue Officer had also issued caste certificate on 4.8.1993 and 29.3.1995. The petitioner states that all his school records also reflect that he belong to Gavara community. The grievance of the petitioner in this writ petition is that the first respondent without issuing any notice or affording any opportunity to him passed the impugned order. Hence the writ petition.

The learned counsel for petitioner submits that the first respondent without conducting any enquiry had straightaway passed the impugned order. He would also submit that had the respondents given any opportunity, petitioner could have proved that he belongs to Gavara community and therefore, the impugned order of the first respondent is illegal and against principles of natural justice.

On the other hand, the learned Government Pleader for respondents submits that the petitioner has obtained the caste certificate earlier based on a false declaration and that the impugned order dated 15.10.2004 has been passed under Section 5(1) of A.P. SC/ST/BC Regulation of Issue of Community Certificate Act, 1993 (for short 'the Act") after following due procedure of law. He would also submit, however, if the petitioner has any grievance against the said order, petitioner has got alternative remedy of appeal/review under Section 7(2) of the Act before the Government and without availing the said statutory remedy, the writ petition is not maintainable and the same is liable to be dismissed.

Section 7(2) of the Act reads as follows:

"Any person aggrieved by an order passed under Section 5, by the District Collector may, within thirty days from the date of publication of such order in the Andhra Pradesh Gazette, appeal to the Government and the Government may, after giving the appellant an opportunity of being heard and subject to such rules as may be prescribed, confirm or set aside the order appealed against."

Having regard to the facts and circumstances of the case, the writ petition is disposed of directing the petitioner to file the statutory appeal before the appellate authority within four weeks from the date of receipt of a copy of this order. Upon filing such appeal, the appellate authority is directed to consider and dispose of the same as expeditiously as possible. Till such time, the order impugned herein be and hereby is suspended.

With the directions as above, the writ petition is disposed of.

No costs.

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N.V.RAMANA, J

Date: 24.1.2005

DA/KSR

To

1 The District Collector, Chittoor, Chittoor District.
2 The Mandal Revenue Officer, Chittoor, Chittoor District.

3 Two CCs to the G.P. for Revenue, High Court Buildings,
Hyderabad (OUT).

4 Two CD copies.